

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

ENERGY DIVISION

Item #10 (Rev. 1)

Agenda ID 13701

RESOLUTION E-4713

March 12, 2015

**R E D A C T E D**  
**R E S O L U T I O N**

Resolution E-4713. Approves two renewables portfolio standard (RPS) power purchase agreements between Southern California Edison and Recurrent Energy, and between Southern California Edison and Borden Solar Farm.

PROPOSED OUTCOME

- This resolution approves cost recovery for two long-term renewable energy power purchase agreements between SCE and Recurrent Energy Tranquillity and Borden Solar Farm. The power purchase agreements are approved without modification.

SAFETY CONSIDERATIONS:

- These power purchase agreements require the seller of the generation to comply with all applicable safety requirements relating to each project, including environmental laws.

ESTIMATED COST:

- Actual costs of the power purchase agreement are confidential at this time.

By Advice Letters 3120-E on October 28, 2014 and 3125-E on October 29, 2014.

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**SUMMARY**

**Southern California Edison Company's (SCE) renewable energy power purchase agreements (PPA) with Borden Solar Farm and Recurrent Energy Tranquillity comply with the Renewables Portfolio Standard (RPS) procurement guidelines and is approved without modification.**

SCE filed Advice Letter (AL) 3120-E on October 28, 2014, requesting California Public Utilities Commission (Commission or CPUC) review and approval of a 15-year renewable energy PPA with Recurrent Energy Tranquillity (Tranquillity). Additionally, SCE filed AL 3125-E on October 29, 2014 requesting Commission review and approval of a 20-year renewable energy PPA with Borden Solar Farm (Borden).

Both PPAs were executed through SCE's 2013 RPS solicitation (2013 RPS RFO). Pursuant to the Tranquillity PPA, RPS-eligible generation will be purchased from the proposed Tranquillity facility. The Tranquillity facility is to be located in Fresno County and have a capacity of approximately 206 megawatts (MW). Pursuant to the Borden PPA, RPS-eligible generation will be purchased from the proposed Borden Solar Farm facility. The Borden facility is to be located in Madera County and have a capacity of approximately 51.3 MW.

This Resolution approves both the Tranquillity PPA and the Borden PPA. SCE's execution of these PPAs is consistent with SCE's 2013 RPS Procurement Plan (RPS Plan), which the Commission approved in Decision (D.) 13-11-024. In addition, RPS deliveries pursuant both the Tranquillity PPA and the Borden PPA are reasonably priced. Consequently, the related costs to SCE are fully recoverable in rates over the life of both the Tranquillity PPA and the Borden PPA, subject to Commission review of SCE's administration of the PPA.

The following table provides a summary of the Tranquillity PPA and the Borden PPA:

**Table 1: Summary of Tranquillity PPA and the Borden PPA:**

| Seller       | Generation Type                                  | Size (MW) | Estimated Average Energy (GWh/Yr) | Forecasted Commercial Operation Date | Term of Agreement (Years) | Location          |
|--------------|--|-----------|-----------------------------------|--------------------------------------|---------------------------|-------------------|
| Tranquillity | Solar photovoltaic ("PV") - single axis tracking | 206       | 555                               | December 1, 2019                     | 15                        | Fresno County, CA |
| Borden       | Solar photovoltaic ("PV")                        | 51.3      | 125                               | June 1, 2020                         | 20                        | Madera County, CA |

## **BACKGROUND**

### **Overview of the Renewables Portfolio Standard (RPS) Program**

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).<sup>1</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.31.<sup>2</sup> Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.<sup>3</sup>

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm> and <http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>.

## **NOTICE**

Notice of AL 3120-E and AL 3125-E were made by publication in the Commission's Daily Calendar. SCE states that a copy of both Advice Letters were mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTESTS**

Advice Letter AL 3120-E and AL 3125-E were protested.

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<sup>1</sup> SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

<sup>2</sup> All further references to sections refer to Public Utilities Code unless otherwise specified.

<sup>3</sup> D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

Both SCE's Advice Letters AL 3120-E and AL 3125-E were timely protested by the Imperial Irrigation District (IID). Specifically, IID recommends that the AL 3120-E and AL 3125-E be rejected without prejudice so that both the Tranquillity PPA and the Borden PPA may be considered in a formal proceeding.

SCE responded to the IID's protests on November 24, 2014. SCE recommends rejection of the protest and asserts that the PPAs are reasonable from a selection, cost, and risk perspective, and that a formal proceeding is not required to consider either the Tranquillity PPA or the Borden PPA.

## **DISCUSSION**

### **SCE requests approval of two renewable energy power purchase agreements with Tranquillity and Borden**

On October 28, 2014, SCE filed AL 3120-E requesting Commission approval of a long-term RPS PPA with Tranquillity. The proposed, approximately 206 MW solar photovoltaic (PV) project is to be located in Fresno County and is being developed by Recurrent Energy, LLC. Pursuant to the Tranquillity PPA, SCE is to begin purchasing generation from Tranquillity beginning December 1, 2019. The expected annual generation to be purchased from the project is 555 gigaWatt-hours (GWh). This generation could count towards SCE's RPS requirements in Compliance Period 2017-2020.

On October 29, 2014, SCE filed AL 3125-E requesting Commission approval of a long-term RPS PPA with Borden. The proposed solar photovoltaic (PV) project is to be located in Madera County and is being developed by 8minutenergy, LLC. Pursuant to the Borden PPA, SCE is to begin purchasing generation from Borden beginning June 1, 2020. The expected annual generation to be purchased from the project is 125 gigaWatt-hours (GWh). This generation could count towards SCE's RPS requirements in Compliance Period 2017-2020.

### **SCE requests that the Commission issue a resolution(s) for AL 3120-E (Tranquillity) and AL 3125-E (Borden) that:**

1. Approval of the Tranquillity and Borden PPAs in their entirety;
2. A finding that the Tranquillity and Borden PPAs are consistent with SCE's 2013 RPS Procurement Plan;

3. A finding that the Tranquillity and Borden PPAs are compliant with the Emissions Performance Standard;
4. A finding that any procurement pursuant to the Tranquillity and Borden PPAs is procurement from an eligible renewable energy resource for purposes of determining SCE's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law;
5. A finding that the Tranquillity and Borden PPAs, and SCE's entry into the PPAs, is reasonable and prudent for all purposes, including, but not limited to, recovery in rates of payments made pursuant to the Tranquillity and Borden PPAs and administrative costs associated with the Tranquillity and Borden PPAs, subject only to further review with respect to the reasonableness of SCE's administration of Tranquillity and Borden PPAs; and
6. Any other and further relief as the Commission finds just and reasonable.

**Energy Division Evaluated the Tranquillity and Borden PPAs based on the following criteria:**

- Consistency with SCE's 2013 RPS Procurement Plan and RPS Procurement Portfolio Need;
- Consistency with SCE's Least-Cost, Best-Fit requirements;
- Net Market Value and Cost Reasonableness;
- Consistency with RPS Standard Terms and Conditions;
- Consistency with Portfolio Content Categories requirements;
- Consistency with the Long-Term Contracting requirement;
- Consistency with Independent Evaluator review requirements;
- Consistency with Procurement Review Group requirements;
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard; and
- Consistency with PPA Viability Assessment and Project Development Status.

### **Consistency of the Tranquillity and Borden PPAs with SCE's 2013 RPS Procurement Plan**

In SCE's 2013 RPS Procurement Plan (2013 RPS Plan) SCE provided an assessment of supply and demand to determine the optimal mix of renewable generation resources; description of potential RPS compliance delays; status update of projects within its RPS portfolio; and an assessment of project failure and delay risk within its RPS portfolio.<sup>4</sup> Specifically, SCE explained that its assessment for determining need is based bundled retail sales, the performance and variability of existing generation, the likelihood of new generation achieving commercial operation, expected commercial on-line dates, technology mix, expected curtailment, and the impact of pre-approved procurement programs, among other factors. Based on that assessment, SCE stated that it has an RPS procurement need beginning in Compliance Period 2017-2020.

SCE stated its intention to procure additional RPS-eligible resources in order to satisfy its RPS requirements. Specifically, it called for the issuance of a competitive solicitation for the purchase of RPS-eligible energy with deliveries beginning on or after January 1, 2016. In addition, SCE sought offers that would qualify as Portfolio Content Category 1 and be for at least 10 years in length.

Based on SCE's RPS portfolio needs described in its 2013 RPS Plan, the Tranquillity and Borden PPAs are consistent with SCE's 2013 RPS Plan. Both the Tranquillity and Borden PPAs are for generation from proposed renewable energy facilities (assuming the facilities are certified by the California Energy Commission as eligible renewable resources). Deliveries from the Tranquillity PPA are set to begin on December 1, 2019, and coincide with SCE's stated need during the third compliance period 2017-2020. Likewise, deliveries from the Borden PPA are set to begin on June 1, 2020, and coincide with SCE's stated need during the third compliance period 2017-2020.

See Confidential Appendix A (Tranquillity) and Appendix B (Borden) for details on SCE's forecasted RPS procurement needs relative to each PPA.

The Tranquillity PPA and the Borden PPA are consistent with SCE's 2013 RPS Procurement Plan, approved by D.13-11-024.

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<sup>4</sup> Section 399.13(a)(5)

**Consistency of the Tranquillity and Borden PPAs with SCE's least-cost best-fit (LCBF) methodology**

In D.04-07-029 and D.12-11-016, the Commission directs the utilities to use certain criteria in their LCBF selection of renewable resources.<sup>5</sup> The decisions offer guidance regarding the process by which the utility ranks bids in order to select or "shortlist" the bids with which it will commence negotiations. As described in its RPS Procurement Plan, SCE's LCBF bid evaluation includes a quantitative analysis and qualitative criteria. SCE's quantitative analysis includes evaluation of price, transmission costs, congestion costs, debt equivalence costs, energy, resource adequacy, and congestion benefits. SCE's qualitative analysis focused on factors such as location, project development progress, resource diversity, counterparty concentration etc. to eliminate or add projects to its shortlist. SCE's 2013 RPS solicitation protocols, including its LCBF methodology, was approved by the Commission in D.13-11-024.

On April 21, 2014, SCE filed AL 3029-E requesting approval of its "2013 RPS Short List Report." The 2013 Shortlist Report included a report on SCE's evaluation and selection process of its 2013 RPS shortlist as well as an independent evaluator report regarding SCE's evaluation and selection of offers.<sup>6</sup> In AL 3120-E and AL 3125-E, the advice letters considered herein, SCE explains that both the Tranquillity and the Borden PPAs are the result of SCE's 2013 RPS solicitation. Both the offers for Tranquillity and Borden were evaluated and shortlisted consistent with its 2013 LCBF evaluation methodology.

See the "Net Market Value and Cost Reasonableness" section of this resolution for a discussion of how the Tranquillity and Borden PPAs compare to other offers from SCE's 2013 RPS solicitation and comparable RPS contracts executed by SCE in the 12 months prior to execution of both the Tranquillity and Borden PPAs. In addition, see Confidential Appendix A for SCE's LCBF evaluation of the Tranquillity PPA and Confidential Appendix B for SCE's LCBF evaluation of the Borden PPA.

The Tranquillity PPA and the Borden PPA were evaluated consistent with the LCBF methodology described in SCE's 2013 RPS Procurement Plan.

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<sup>5</sup> See § 399.14(a)(2)(B).

<sup>6</sup> AL 3029-E is effective as of July 8, 2014.

### **Net Market Value and Cost Reasonableness of the Tranquillity and Borden PPAs**

The Commission's reasonableness review for RPS PPAs includes a comparison of the proposed PPA's net market value (the result of the LCBF calculation) and price relative to other RPS offers received in recent RPS solicitations and to comparable contracts executed by the utility in the 12 months prior to the proposed PPA's execution date. Using this methodology and the confidential analysis provided by SCE in AL 3120-E and AL 3125-E, the Commission determines that the net market value of both the Tranquillity PPA and the Borden PPA are comparable to other RPS offers received by SCE. Consequently, the Commission determines that the costs of the Tranquillity and Borden PPAs are reasonable. See Confidential Appendix A for a detailed discussion of the analysis for the Tranquillity PPA. See Confidential Appendix B for a detailed discussion of the analysis for the Borden PPA.

The Tranquillity PPA and the Borden PPA compare favorably from a net market value and cost basis relative to RPS offers received in SCE's 2013 RPS solicitation and comparable contracts executed by SCE in the 12 months prior to executing the Tranquillity PPA and the Borden PPA.

Payments made by SCE under the Tranquillity PPA and the Borden PPA are fully recoverable in rates over the life of the PPAs, subject to Commission review of SCE's administration of the PPAs and any other conditions contained herein or required by law.

### **Consistency of the Tranquillity and Borden PPAs with RPS Standard Terms and Conditions (STCs)**

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, five of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently, the Commission further refined some of the STCs in D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

The Tranquillity PPA and the Borden PPA include the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.



### **Consistency of the Tranquillity and Borden PPAs with Portfolio Content Categories**

In D.11-12-052, the Commission defined and implemented portfolio content categories for the RPS program and authorized the Director the Energy Division to require the investor-owned utilities to provide information regarding the proposed contract's portfolio content category classification in each advice letter seeking Commission-approval of an RPS contract. The purpose of the information is to allow the Commission to evaluate the claimed portfolio content category of the proposed RPS PPA and the risks and value to ratepayers if the proposed PPA ultimately results in renewable energy credits in another, less preferred, portfolio content category.

In AL 3120-E and AL 3125-E, SCE claims that the procurement pursuant to both the Tranquillity and Borden PPAs will be classified as Portfolio Content Category 1. To support its claim, SCE asserts that both the Tranquillity and Borden facilities are located in California, are RPS-eligible resources that expects to have first points of interconnection within the CAISO, and that pursuant to the Tranquillity and Borden PPAs the RECs associated with the electricity from both PPAs will delivered to SCE and not unbundled or transferred to another owner.

Consistent with D.11-12-052, SCE provided information in AL 3120-E and AL 3125-E regarding the expected portfolio content category classification of the renewable energy credits procured pursuant to the Tranquillity and Borden PPAs.

In this resolution, the Commission makes no determination regarding the portfolio content category classification of procurement from either the Tranquillity PPA or the Borden PPA. The RPS contract evaluation process is separate from the RPS compliance and portfolio content category classification process, which require consideration of several factors based on various showings in a compliance filing. Thus, making a portfolio content category classification determination in this resolution regarding the procurement considered herein is not appropriate. SCE should incorporate the procurement resulting from the approved Tranquillity and Borden PPAs and all applicable supporting documentation to demonstrate portfolio content category classification in the appropriate compliance showing(s) consistent with all applicable RPS program rules.

### **Consistency of the Tranquillity and Borden PPAs with Long-Term Contracting Requirement**

In D.12-06-038, the Commission established a long-term contracting requirement that must be met in order for retail sellers to count RPS procurement from contracts less than 10 years in duration for compliance with the RPS program.<sup>7</sup> In order for the procurement from any short-term contract(s) signed after June 1, 2010, to count for RPS compliance, the retail seller must execute long-term contract(s) in the same compliance period in which the short-term contract(s) is signed. The volume of expected generation in the long-term contract(s) must be sufficient to cover the volume of generation from the short-term contract(s).<sup>8</sup>

The Tranquillity PPA is for a 15 year term and was executed during the second compliance period (2014-2016). Additionally, the Borden PPA is for a 20 year term and was executed during the second compliance period (2014-2016).

Because the Tranquillity and Borden PPAs are both greater than 10 years in length, the long-term contracting requirement does not apply to SCE's procurement pursuant to either the Tranquillity PPA or the Borden PPA. Consequently, procurement from the Tranquillity PPA and the Borden PPA will contribute to SCE's long-term contracting requirement established in D.12-06-038 for Compliance Period 2014-2016.

### **Independent Evaluator Review of the Tranquillity and Borden PPAs**

SCE retained Merrimack Energy Group, Inc. as the independent evaluator ("IE") to oversee its 2013 RPS solicitation. In addition, Merrimack oversaw the negotiations between SCE and Tranquillity and between SCE and Borden. Lastly, the IE evaluated the overall merits of the Tranquillity and Borden PPAs. AL 3120-E and AL 3125-E included a public and confidential version of the IE's report.

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<sup>7</sup> For the purposes of the long-term contracting requirement, contracts of less than 10 years duration are considered "short-term" contracts. (D.12-06-038).

<sup>8</sup> Pursuant to D.12-06-038, the methodology setting the long-term contracting requirement is: 0.25% of Total Retail Sales in 2010 for the first compliance period; 0.25% of Total Retail Sales in 2011-2013 for the second compliance period; and 0.25% of Total Retail Sales in 2014-2016 for the third compliance period.

In the IE's opinion, both the Tranquillity and Borden PPAs were reasonably negotiated with contract terms that taken as a whole appropriately protect the interests of SCE's ratepayers. The IE also concludes that both projects are very mature in terms of project development. Overall, the IE states that he agrees with SCE that the Tranquillity PPA and the Borden PPA merit Commission approval.

Consistent with D.06-05-039, an independent evaluator oversaw SCE's negotiations for the Tranquillity PPA and the Borden PPA, and states that the PPAs merit approval.

### **Procurement Review Group (PRG)**

The PRG was initially established in D.02-08-071 to review and assess the details of the IOU's overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as a mechanism for procurement review by non-market participants.

Participants in SCE's PRG include representatives from the Office of Ratepayer Advocates, Department of Water Resources, Union of Concerned Scientists, The Utility Reform Network, and the California Utility Employees. In AL 3120-E and AL 3125-E, SCE asserts that the proposed execution of both the Tranquillity PPA and the Borden PPA were presented to its PRG at the July 16, 2014 meeting.

SCE's PRG participants included representatives from Energy Division (ED), the Office of Ratepayer Advocates (ORA), Department of Water Resources, Union of Concerned Scientists, The Utility Reform Network (TURN), and the California Utility Employees (CUE). Representatives from ED, ORA, TURN, CUE, and IE attended the July 16, 2014, PRG meeting.

Consistent with D.02-08-071, SCE's Procurement Review Group participated in the review of the Tranquillity and Borden PPAs.

### **Compliance of the Tranquillity and Borden PPAs with the Interim Greenhouse Gas Emissions Performance Standard (EPS)**

Pub. Util. Code §§8340 and 8341 require that the Commission consider emissions costs associated with new long-term (five years or greater) baseload power contracts procured on behalf of California ratepayers.<sup>9</sup>

D.07-01-039 adopted an interim EPS that establishes an emission rate for obligated facilities at levels no greater than the greenhouse gas emissions of a combined-cycle gas turbine power plant. Generating facilities using certain renewable resources are deemed compliant with the EPS.<sup>10</sup>

The Tranquillity PPA and the Borden PPA are not covered procurement subject to the EPS because the generating facilities have forecast annualized capacity factors of less than 60 percent and therefore are not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim EPS Rules.

### **Viability and Project Development Status of the Tranquillity and Borden PPAs**

#### Developer Experience:

The Tranquillity solar PV facility is being developed by Recurrent Energy, LLC, and the Borden solar PV facility is being developed by 8minutenergy Renewables. Both Recurrent (Tranquillity) and 8minutenergy (Borden) are experienced in developing, financing, constructing, and operating large scale PV projects.

#### Technology and Quality of Resource:<sup>11</sup>

The Tranquillity and Borden projects will use solar PV panels that have been technically proven on utility-scale generation projects. Additionally, given the

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<sup>9</sup> “Baseload generation” is electricity generation at a power plant “designed and intended to provide electricity at an annualized plant capacity factor of at least 60%.” Pub. Util. Code §8340 (a).

<sup>10</sup> D.07-01-039, Attachment 7, p. 4.

<sup>11</sup> SCE AL 3120-E, p.16.

locations of projects and associated resource quality, SCE believes that both Tranquillity and Borden will be able to meet the terms of their respective PPAs.

Site Control and Permitting Status:

Tranquillity has secured site control to support the entire project.<sup>12</sup> The project site was most recently used for grazing and the developer has received approval for cancellation of Williamson Act contracts. Tranquillity has obtained pre-RPS certification<sup>13</sup> from the California Energy Commission (CEC), a conditional use permit from Fresno County, and additional permits are in progress.

The Borden Solar Farm will be located in unincorporated Madera County, California. Additional information regarding site control for the Borden PPA is included in Confidential Appendix B.

Interconnection Status:

The Tranquillity facility will interconnect at the 230 kV breaker position on Pacific Gas and Electric Company's ("PG&E") 230 kV switching station.<sup>14, 15</sup> Also, the developer has executed a Large Generator Interconnection Agreement (LGIA) for the project.<sup>16</sup>

The Site for the Borden Solar Farm is located in unincorporated Madera County, California, approximately three and one quarter miles east of the City of Madera. The Site is currently being used as grazing land. The project will interconnect at

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<sup>12</sup> SCE AL 3120-E, p.17.

<sup>13</sup> The CEC Pre-Certification identification number is 60858C.

<sup>14</sup> SCE AL 3120-E, p.2

<sup>15</sup> <http://www.co.fresno.ca.us/DepartmentPage.aspx?id=56086>

<sup>16</sup> "California ISO List of LGIA/SGIA (as of 11/6/14), " accessed on January 8, 2014 at: [http://www.caiso.com/Documents/ListLargeGeneratorInterconnection\\_SmallGeneratorInterconnectionAgreements.pdf](http://www.caiso.com/Documents/ListLargeGeneratorInterconnection_SmallGeneratorInterconnectionAgreements.pdf)

PG&E's Borden substation.<sup>17</sup> Also, the developer has executed a LGIA for the project.<sup>18</sup>

SCE states that the Tranquillity PPA and the Borden PPA are based on its 2013 RPS pro forma agreement. Based on the terms and conditions of the PPAs and the project development we understand to be achieved to date, it is reasonable to expect that both Tranquillity and Borden will meet the terms and conditions of their respective PPAs.

### **Safety Considerations of the Tranquillity and Borden PPAs**

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public. The Tranquillity and Borden PPAs require the respective seller of the generation to comply with all applicable requirements of law relating to the projects including those related to planning, construction, ownership, decommissioning and/or operation of the projects. Based on the information before us, these contracts do not appear to result in any adverse safety impacts on the facilities or operations of SCE.

### **Protests to SCE AL 3120-E and AL 3125-E are denied**

IID recommends that SCE AL 3120-E and SCE AL 3125-E be rejected without prejudice

IID recommends in its protest that SCE AL 3120-E and AL 3125-E, along with SCE ALs 3119-E, 3121-E, 3122-E, 3124-E, and 3126-E, be denied without prejudice because a formal proceeding is necessary to review SCE's requests. IID asserts that bids for IID-interconnected projects offered to SCE in its 2013 RPS solicitation were not fairly evaluated because IID-related transmission network upgrade costs were considered and resulted in the double-counting of costs

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<sup>17</sup> SCE AL 3125-E, p.2

<sup>18</sup> "California ISO List of LGIA/SGIA (as of 11/6/14)," accessed on January 8, 2014 at: [http://www.aiso.com/Documents/ListLargeGeneratorInterconnection\\_SmallGeneratorInterconnectionAgreements.pdf](http://www.aiso.com/Documents/ListLargeGeneratorInterconnection_SmallGeneratorInterconnectionAgreements.pdf)

causing a precedent against IID-interconnected projects. IID argues that the inclusion of the IID transmission network upgrade costs is not consistent with previous Commission decisions related to LCBF and the Sunrise transmission powerlink.<sup>19</sup> Additionally, IID asserts that the cumulative MWs that SCE is seeking approval through the above mentioned seven advice letters is unprecedented and merits examination in a formal proceeding.

In response to the IID protest, SCE asserts that IID's protest is without merit and that its 2013 RPS solicitation was fair and reasonable. SCE argues that IID's protest is incorrect and that SCE's inclusion of transmission costs for IID-interconnected projects as a qualitative factor is not double counting of costs because the transmission network upgrade costs are reimbursable to the generator for IID and CAISO-interconnected projects. Further, SCE argues that its consideration of transmission costs for IID-interconnected projects ensures equal treatment of IID and CAISO-interconnected projects. Lastly, SCE asserts that its request for approval of eight RPS PPAs in seven ALs is not unprecedented because the IOUs have been allowed to seek approval of RPS contracts through Tier 3 advice letters since the beginning of the RPS program.

Consideration and review of SCE AL 3120-E and AL 3125-E via the Commission's advice letter process is reasonable and a formal proceeding is not necessary for several reasons. First, the Commission agrees with SCE that its inclusion of transmission upgrade costs in its LCBF evaluation of IID-interconnected projects does not double-count transmission costs as transmission network upgrade costs are reimbursable to the generator for both CAISO and IID-interconnected projects.<sup>20</sup> Second, as stated above, SCE's 2013 RPS solicitation protocols, including its LCBF evaluation, were approved as part of SCE's 2013 RPS Plan in D.13-11-024 and its shortlist was submitted in AL 3029-E and approved by Energy Division. Third, in this Resolution the Tranquillity PPA and the Borden PPA were found to be consistent with SCE's 2013 RPS

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<sup>19</sup> Specifically, IID references D.03-06-071, D.04-07-029, and D.12-11-016.

<sup>20</sup> For CAISO-interconnected projects, transmission network upgrade costs are reimbursed to the generator over a five year period beginning on the commercial operation date (CAISO Fifth Replacement Electronic Tariff, Appendix Y). For IID-interconnected projects, transmission network upgrade costs are reimbursed to the generator via transmission rate credits (Imperial Irrigation District Open Access Transmission Tariff, Attachment J).

Procurement Plan. Thus, there is no reason for evidentiary hearings to further review SCE's LCBF evaluation methodology or its 2013 RPS shortlist. Lastly, SCE's request for review and approval of an RPS contract is consistent with the process approved in D.02-08-071 and D.03-06-071. Therefore, IID's protest recommending SCE AL 3120-E and AL 3125-E be rejected without prejudice is denied.

### **RPS Eligibility and CPUC Approval**

Pursuant to Public Utilities Code Section 399.13, the CEC certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS contract, the Commission has required standard and non-modifiable "eligibility" language in all RPS contracts. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an "Eligible Renewable Energy Resource," that the project's output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.<sup>21</sup>

The Commission requires a standard and non-modifiable clause in all RPS contracts that requires "CPUC Approval" of a PPA to include an explicit finding that "any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), D.11-12-020 and D.11-12-052, or other applicable law."<sup>22</sup>

Notwithstanding this language, given that the Commission has no jurisdiction to determine whether a project is an "Eligible Renewable Energy Resource" for RPS purposes, this finding and the effectiveness of the non-modifiable "eligibility" language is contingent on CEC's certification of the Tranquillity and Borden

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<sup>21</sup> See, e.g. D. 08-04-009 at Appendix A, STC 6, Eligibility.

<sup>22</sup> See, e.g. D. 08-04-009 at Appendix A, STC 1, CPUC Approval.



projects as an “Eligible Renewable Energy Resources.” The contract language that the Tranquillity and Borden projects are “procurement from an eligible renewable energy resource” must be a true statement at the time of the first delivery of energy, not at the signing of their respective PPAs or at the issuance of this Resolution.

While we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation absent CEC certification. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission’s authority to review the utilities’ administration of such contracts.

### **Confidential Information**

The Commission, in implementing Public Utilities Code Section 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, including price, is confidential for three years from the date the contract states that energy deliveries begin, or until one year following contract expiration, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked “[REDACTED]” in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

### **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for this draft resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today on February 3, 2015.

Comments were filed in a timely fashion on February 24, 2015 by IID.

We carefully considered comments which focused on factual, legal, or technical errors and made appropriate changes to the draft resolution.

**IID comments that the draft resolution should be modified for accuracy and provide direction regarding future procurement efforts and processes**

In IID's comments, it asserts that SCE modified its LCBF methodology after offers were received and recommends that for the purpose of accuracy the draft resolution be modified to state that "23 SCE revised its LCBF methodology during the offer evaluation process, and after proposals were submitted." In making its recommendation, IID asserts that the IE reports that were submitted with AL 3120-E and 3125-E state that SCE's methodology had changed mid-stream of the evaluation process.<sup>24</sup>

We decline to make the modification that IID recommends. The IE does not state that SCE modified its evaluation methodology after solicitation offers were received. Instead, the IE states that SCE's previous RPS solicitation evaluation approach was different than its 2013 RPS solicitation evaluation, which was approved by D.13-11-024.

IID further recommends that the draft resolution be modified so that it does not categorically accept or adopt SCE's modified LCBF methodology because SCE's assumptions for calculating transmission upgrade costs for projects interconnecting to IID are speculative and potentially incorrect.

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<sup>23</sup> IID February 24, 2015 Comments to Draft Resolution E-4713 at 2.

<sup>24</sup> IID February 24, 2015 Comments to Draft Resolution E-4713 at 2-3.

As stated above in this Resolution, when the Commission approved SCE's 2013 RPS procurement plan in D.13-11-024, SCE's 2013 RPS solicitation protocols were also approved. Therefore IID's recommendation regarding accepting SCE's protocol in this Resolution is not relevant because the protocols had been vetted by parties and approved by the Commission prior to this Resolution. Accordingly, we do not modify the draft resolution.

Lastly, in its comments, IID expresses its concerns regarding the technical issues related to SCE's LCBF methodology, specifically, the accuracy of criteria, the transparency of criteria, and the consistency of the criteria with State policy. Consequently, IID recommends that the Commission direct SCE to work with IID, IID developers, and other interested parties in future procurement efforts to assure that there is reasonable consideration of all technical issues and that SCE's evaluation does not unnecessarily impede development of Imperial Valley renewable resources.

We decline to provide the requested specific direction in this Resolution given that IID's concerns regarding the RPS procurement process, including solicitation protocols, is preliminarily scoped in R.15-02-020. That said, the Commission will continue to review RPS procurement plans, including protocols, for consistency with Commission decisions, fairness, and transparency.

## **FINDINGS**

1. The Recurrent Energy Tranquillity and the Borden Solar power purchase agreements are consistent with Southern California Edison's 2013 Renewables Portfolio Standard Procurement Plan, as approved by D.13-11-024.
2. The Recurrent Energy Tranquillity and the Borden Solar power purchase agreements were evaluated consistent with the least cost, best fit methodology described in Southern California Edison's 2013 RPS Procurement Plan.
3. The Recurrent Energy Tranquillity and the Borden Solar power purchase agreements compare favorably from a net market value and cost basis relative to RPS offers received in Southern California Edison's 2014 RPS solicitation.
4. Payments made by Southern California Edison pursuant to the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements are

fully recoverable in rates over the life of the respective power purchase agreements, subject to Commission review of Southern California Edison's administration of the power purchase agreements and any other applicable Commission review.

5. The Recurrent Energy Tranquillity and the Borden Solar power purchase agreements include the Commission adopted Renewables Portfolio Standard "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.
6. Consistent with D.11-12-052, Southern California Edison provided information in Advice Letter 3120-E and Advice Letter 3125-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant to the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements.
7. Because the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements are greater than 10 years in length, the long-term contracting requirement does not apply to Southern California Edison's procurement pursuant to the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements. Consequently, procurement pursuant to the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements will contribute to Southern California Edison's long-term contracting requirement established in D.12-06-038 for Compliance Period 2014-2016.
8. Consistent with D.06-05-039, an independent evaluator oversaw Southern California Edison's Renewables Portfolio Standard procurement process.
9. Consistent with D.02-08-071, Southern California Edison's Procurement Review Group participated in the review of the Recurrent Energy Tranquillity and the Borden Solar power purchase agreements.
10. The Recurrent Energy Tranquillity and the Borden Solar power purchase agreements are not covered procurement subject to the Emissions Performance Standard because the generating facility has a forecast annualized capacity factor of less than 60 percent and therefore is not baseload generation under paragraphs 1(a)(ii) and 3(2)(a) of the Adopted Interim Emissions Performance Standard Rules.
11. It is reasonable to expect that Recurrent Energy Tranquillity will be able to meet the terms and conditions in the Recurrent Energy Tranquillity power purchase agreement.

12. It is reasonable to expect that Borden Solar will be able to meet the terms and conditions in the Borden Solar power purchase agreement.
13. Imperial Irrigation District's protest recommending Southern California Edison Advice Letter 3120-E and Advice Letter 3125-E is rejected without prejudice is denied.
14. Procurement pursuant to the Recurrent Energy Tranquillity and Borden Solar power purchase agreements must be procurement from eligible renewable energy resources certified by the California Energy Commission for purposes of determining Southern California Edison's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Sections 399.11, et seq.), D.03-06-071 and D.06-10-050, or other applicable law on or before the first delivery of energy.
15. The confidential appendices, marked "[REDACTED]" in the public copy of this Resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
16. Advice Letter 3120-E should be approved effective today.
17. Advice Letter 3125-E should be approved effective today.

**THEREFORE IT IS ORDERED THAT:**

1. The request of the Southern California Edison Company for review and approval of a power purchase agreement with Recurrent Energy Tranquillity, and Borden Solar Farm as requested in Advice Letters AL 3120-E and AL 3125-E, respectively, are approved without modification.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on March 12, 2015; the following Commissioners voting favorably thereon:

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TIMOTHY J. SULLIVAN  
Executive Director

## **Confidential Appendix A**

Evaluation Summary of the Tranquillity PPA

**[REDACTED]**

## **Confidential Appendix B**

Evaluation Summary of the Borden PPA

**[REDACTED]**



## **Confidential Appendix C**

Excerpt from the Independent Evaluator Report on the  
Tranquillity PPA

**[REDACTED]**

## **Confidential Appendix D**

Excerpt from the Independent Evaluator Report on the  
Borden Solar PPA

**[REDACTED]**